RECENT IMPORTANT DECISIONS.

ADVERSE POSSESSION—COLOR OF TITLE—DEED VOID FOR INDEFINITE DESCRIPTION.—In an action to subject certain lands to administrator's sale, the occupants set up a title by adverse possession, claiming color of title under tax deeds. These deeds described the land as "a part of the west half of the northeast quarter of section 17 * * containing one acre more or less." *Held*, that no title by adverse possession could be acquired under these deeds. *Hanna* v. *Palmer* (1901) 194 Ill. 41, 61 N. E. Rep. 1051, 56 L. R. A. 93.

"The deeds offered in evidence," said the court, "were not color of title, as they were all void for uncertainty. *Shackleford* v. *Bailey*, 35 Ill. 387; *Brooks* v. *Bruyn*, 35 Ill, 392; *Allmendinger* v. *McHie*, 189 Ill. 308, 59 N. E, Rep. 517. One acre out of a tract of land, without specifying the part of the tract out of which it is taken, cannot be located." This holding is clearly right. See *McRoberts* v. *McArthur*, 62 Minn. 310, 64 N. W. Rep. 903; *Tierney* v. *Brown*, 65 Miss. 563, 7 Am. St. Rep. 679. Where, however, the parcel is located, the description is not void. Thus if it be a given number of acres in the west part of a certain parcel, the land may be laid off in a parallelogram containing that number of acres, *Gaston* v. *Weir*, 84 Ala. 193; *Tierney* v. *Brown*, supra; (see also *Minneapolis Ry. Co.* v. *Cox*, 76 Iowa 306, 14 Am. St. Rep. 216); and a certain number of acres in or out of a specified corner of a certain parcel will be laid off in a square; *Wilkinson* v. *Roper*, 74 Ala. 140; *Walsh* v. *Ringer*, 2 Ohio 327, 15 Am. Dec. 555. A deed of one-half of a described tract has been held to convey an undivided one-half interest in the whole. *Morehead* v. *Hall*, 126 N. Car. 213.

AGENCY—BROKER—DAMAGES FOR TERMINATING AUTHORITY WITHOUT GIVING REASONABLE TIME TO SELL.—Plaintiff claimed that, in September, 1898, defendant employed him as broker to sell certain real estate, and that it was then stated that he was the only broker employed. Defendant fixed no price, but a certain sum was suggested by another agent of defendant as the asking price. In November plaintiff reported to the defendant two offers for less than the sum suggested, both of which defendant declined. Defendant then greatly raised the price to a point which plaintiff deemed to practically stop the negotiations. On February 25, 1899, defendant notified plaintiff that a certain other sum, more than that first suggested, but less than the second figures, would be accepted. On March 1st defendant revoked plaintiff's authority to sell. Defendant repaid plaintiff his disbursements, but he sues for damages for not being allowed a reasonable time within which to find a purchaser. No sale of the property was made to any one. *Held*, that the plaintiff could not recover. *Cadigan* v. *Crabtree* (1901) 179 Mass. 474, 61 N. E. Rep. 37, 55 L. R. A. 77.

The position of the court was that until February 25, the plaintiff was in the attitude of a broker seeking to find a purchaser at a sum which was satisfactory to the plaintiff. No such purchaser being found, the plaintiff earned no commission. After February 25, the plaintiff was seeking to find a purchaser at a fixed price, but had found none when his authority was terminated. There was no agreement that he should have a particular time; he had no negotiations pending and ripe for consummation, as in *Sibbald* v. *Bethlehem Iron Co.*, 83 N. Y. 378, 38 Am. Rep. 441, Mechem's Cas. on Agency, p. 301; and under the circumstances no agreement for a definite time would be implied. "The promise to pay a brokerage commission if a customer is found to purchase at a stated price," said the court, "is not the ordinary employment of labor, but is more in the nature of an offer, namely, an offer to pay a commission if a person is produced who buys at the price named; and, like any other offer, it can be withdrawn at any time, without

regard to the fact that work has been done by a person in reliance on it, provided the work done has not brought the person within the terms of the offer." The broker who has not found a customer can not recover on a *quantum meruit* for work done. He may practically have found the customer and thus earned his commission as such; *Dowling* v. *Morrill*, 165 Mass. 491, 43 N. E. Rep. 295; MECHEM ON AGENCY § 966; but his action should then be for the commission and not *quantum meruit*: *Fitzpatrick* v. *Gilson*, 176 Mass. 477, 57 N. E. Rep. 1000.

AGENCY—LIABILITY OF AGENT TO PRINCIPAL FOR ACTS OF SUB-AGENT.—Plaintiff, an insurance company, appointed defendant its agent to effect insurance, and issue policies for it in a certain territory. Defendant, without authority from the plaintiff, appointed a sub-agent and confided to him the general charge of his business. Without the agent's knowledge the sub-agent delivered a policy (countersigned by him in the agent's name), and received payment (which was turned into the agent's account), covering a risk which the plaintiff company had instructed the agent not to take. A loss occurred, which the company paid, and it now sues the agent for indemnity. *Held*, that the agent is liable for this act of his sub-agent, and the fact that he had no knowledge that the policy was issued, or the premium received, is no defense. *Franklin Fire Ins. Co*, v, *Bradford*, (1901) 201 Pa. 32, 50 Atl. Rep. 286, 55 L. R. A. 408.

This holding, if we assume that the facts are correctly interpreted, is in accord with the general rule that an agent who employs a sub-agent on his own account is responsible to his principal for the manner in which the business has been done, whether by himself or his agent. MECHEM ON AGENCY § 197. If the sub-agent is really the agent of the original agent, the latter is responsible for his acts within the scope of the authority conferred, even though he may have been ignorant of the particular act, or may have expressly forbidden it. Id. § 735. The court held that, under the circumstances, there was no forgery committed when the sub-agent signed the agent's name to the policy, and that the act was within the scope of the authority conferred by the agent upon the sub-agent. In another case, however, growing out of the same transaction and involving the same agent and sub-agent, the court of appeals for the third circuit, in a similar suit by another insurance company, held that the act of the sub-agent was not within the scope of the authority, that the countersigning of the policy was legally a forgery, and therefore that the agent was not responsible. *Bradford* v. *Hanover Ins. Co.* (1900) 102 Fed. Rep. 48, 43 C. C. A. 310, 49 L. R. A. 530. This holding, like the other, is sound in law, if the facts are rightly interpreted.

AGENCY—RATIFICATION.—F. entered into a written contract under seal, with S., "trustee," whereby S. agreed to buy and F. agreed to sell certain real estate. S. did not pay for the land as agreed, and an action was brought against S. and also against J. and W., it being alleged that the two latter were principals of S. in the purchase, and that they had ratified the contract. The acts relied upon as constituting the ratification were acts *in pais*. *Held*, that, without considering whether a contract under seal could be ratified by such acts, there could be no ratification of a contract not made by the alleged agent as agent of the persons alleged to have ratified. *Ferris* v. *Snow*, (1902), — Mich. —, 90 N. W. Rep. 850.

This holding is in accordance with the general rule. In order that the act may be ratified, it must, at the time it was done, have been done by the assumed agent *as* agent for the persons sought to be held as principals. *Hamlin* v. *Sears*, 82 N. Y. 327, Mechem's Cas. on Agency, 136; *Michell* v. *Association*, 48 Minn. 283, 51 N. W. Rep. 608. In the very late case of *Keighley* v. *Durant*, 1901, App. Cas. 240, it was held, reversing *Durant* v. *Roberts*, [1900] 1 Q. B. 629, that the contract cannot be ratified unless the alleged agent at the time *professed* to be acting for a principal.